

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008CN3599
)	EEOC NO.: N/A
WILLIAM E. HARRIS III)	ALS NO.: 09-0543
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman and Charles E. Box presiding, upon William E. Harris III's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008CN3599; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On June 17, 2008, the Petitioner filed a charge of discrimination with the Respondent against his former employer Habilitative Systems, Inc. ("Employer"). The Petitioner alleged the Employer subjected him to harassment (Count A) and constructively discharged him (Count B) because of the Petitioner's sexual orientation, heterosexual, in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). On August 28, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On September 30, 2009, the Petitioner timely filed his Request.
2. The Petitioner was hired by the Employer on June 10, 2002. In 2008, the Petitioner was a Senior Counselor.
3. From March 13, 2008 through April 3, 2008, the Petitioner states that he was harassed by R. Jackson (heterosexual), the Employer's Vice President for External Relations, and W. Smith (heterosexual), the Employer's Clinical Director. Specifically, the Petitioner contends Jackson and Smith belittled him in front of the Petitioner's subordinates during staff meetings and restricted the Petitioner's computer usage during normal business hours.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

4. On March 21, 2008, the Petitioner submitted a letter of resignation to the Employer.
5. On March 27, 2008, the Petitioner attempted to rescind his resignation via e-mail.
6. On April 4, 2008, the Employer told the Petitioner that it would not permit the Petitioner to rescind his resignation.
7. In Count A of the charge, the Petitioner contends the Employer, via Jackson and Smith, harassed him because of his sexual orientation, which is heterosexual. The Petitioner believes non-heterosexual employees were not similarly harassed. In Count B, the Petitioner contends the Employer constructively discharged him by subjecting the Petitioner to continuous harassment and discrimination because of his sexual orientation, causing the work environment to become so hostile and intolerable that the Petitioner was forced to resign.
8. In his Request, the Petitioner restates that he was harassed by the Employer during work-related meetings. The Petitioner contends that the Respondent did not conduct a thorough investigation, and submits names of individuals whom the Petitioner believes would corroborate his allegations of harassment.
9. In its response, the Respondent argues there is no substantial evidence of discriminatory harassment or of constructive discharge, and asks the Commission to sustain its dismissal of the Petitioner's charge.

CONCLUSION

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D).

As to Count A, assuming as true that the Petitioner was belittled during work meetings and that the Employer restricted his computer usage during work hours, there is simply no evidence in the file that the Employer's conduct was motivated by the Petitioner's sexual orientation.

Jackson and Smith, the individuals who allegedly belittled the Petitioner, were also heterosexual. There is no evidence that similarly situated non-heterosexual employees were being treated more favorably than the Petitioner, nor was there any evidence in the file that the Employer was biased against heterosexual employees. Simply, the investigation file is bereft of any evidence of a causal connection between the Employer's conduct and the Petitioner's sexual orientation.

Similarly, there is no substantial evidence to support the Petitioner's constructive discharge claim as alleged in Count B. A constructive discharge occurs when an employer deliberately makes working conditions so intolerable that a reasonable person in the Petitioner's position would be compelled to resign. See Steele v. Illinois Human Rights Commission, 160 Ill.App.3d 577, 513 N.E.2d 1177 (3rd Dist. 1987). The Petitioner contends that he was constructively discharged by the Employer because of the Petitioner's sexual orientation. However, as previously stated, there is no substantial evidence that the Petitioner was harassed or discriminated against because of his sexual

